

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD OTTO HANSEN,)	4:06CV3211
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
JOHN DOE,)	
)	
Defendant.)	

This matter is before the court pursuant to the Eighth Circuit Court of Appeal's Memorandum and Order directing this court to assess and collect the appellate filing fee in this case. (Filing No. 53.) Under the Prison Litigation Reform Act, a prisoner Plaintiff is required to pay the full amount of the court's \$455.00 appellate filing fee by making monthly payments to the court, even if the prisoner is proceeding IFP. 28 U.S.C. § 1915(b). "[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001). The appellate filing fee is assessed when a district court receives the prisoner's notice of appeal. *Henderson v. Norris*, 129 F.3d 481, 485 (8th Cir. 1997).

Pursuant to 28 U.S.C. § 1915(b)(1) Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint. Accordingly, the court finds that the initial partial filing fee is \$2.89, based on an average monthly balance of \$14.49.

In addition to the initial partial filing fee, Plaintiff must "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner's

institution to collect the additional monthly payments and forward them to the Court. 28 U.S.C. § 1915(b). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to 28 U.S.C. § 1915(b)(2):

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

The Clerk of court shall send a copy of this Memorandum and Order to the appropriate financial official at Plaintiff's institution.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall pay an initial partial appellate filing fee of \$2.89.
2. After payment of the initial partial appellate filing fee, Plaintiff's institution shall collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and shall forward those installments to the court.
3. The Clerk of court shall send a copy of this order to the parties, to the appropriate officer for Plaintiff's institution and to the Eighth Circuit Court of Appeals.

April 2, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge